



# In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 480

STEPHEN S. CHANDLER, UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA, PETITIONER

*v.*

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT*

## MEMORANDUM SUGGESTING MOOTNESS

The petition for a writ of certiorari seeks review of an order of the United States Court of Appeals for the Tenth Circuit, entered on the United States' petition for a writ of mandamus, permanently staying any proceedings before the Special Master whom petitioner had appointed in the income tax refund case styled *Robert O. Burbridge, et ux.* v. *United States*, Western District of Oklahoma, Civil No. 9404 (Pet. App. x). The time of the United States for filing a response to the petition for certiorari has been



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extended (first by the Clerk, and then by Mr. Justice White) to and including November 24, 1967.

On November 1, 1967, the government accepted the taxpayers' offer to compromise the *Burbridge* case. On November 10, 1967, petitioner, at taxpayers' instance, entered an order dismissing the case with prejudice.[1]

In view of this final disposition of the controversy between the taxpayers and the United States,[2] any issue as to the propriety of petitioner's reference of the *Burbridge* case to a Special Master, and the appellate court's order staying the reference, has become moot. Accordingly, the Court should grant the petition for a writ of certiorari, vacate the order of the court of appeals, and remand the case to that court with instructions to dismiss the mandamus proceedings as moot. See *United States* v. *Munsingwear, Inc.*, 340 U.S. 36, 39–41; *Platt* v. *Minnesota Mining & Mfg. Co.*, 382 U.S. 456.

Respectfully submitted.

ERWIN N. GRISWOLD,
*Solicitor General.*

NOVEMBER 1967.

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[1] A certified copy of the order of dismissal is printed as Appendix A hereto and is being filed with the Clerk.

[2] On November 8, 1967, the State of Oklahoma, on behalf of its Tax Commission, filed a "Claim of Intervention" for the purpose of asserting a State tax claim against the taxpayers. No action was taken on the intervention question before dismissal.

# APPENDIX A

In the United States District Court for the Western District of Oklahoma

Civil No. 9404—Filed Nov. 13, 1967

ROBERT O. BURBRIDGE, AND VELMA J. BURBRIDGE, PLAINTIFFS

*v.*

UNITED STATES OF AMERICA, DEFENDANT.

*Dismissal with Prejudice and Order Thereon*

DISMISSAL WITH PREJUDICE

Comes now the plaintiffs in the above captioned case and dismiss the above numbered and styled cause with prejudice against the filing of a future action thereon; each party to bear their own costs.

RINEHART, MORRISON & COOPER,
*2320 First National Building,*
*Oklahoma City, Oklahoma.*
By GUS RINEHART,
*Attorneys for Plaintiffs.*

ORDER

The dismissal is accepted and this cause is dismissed with prejudice and it is so ordered.

Dated this 10th day of November, 1967.

STEPHEN S. CHANDLER,
*Chief Judge, U.S. District Court for the Western District of Oklahoma.*

UNITED STATES OF AMERICA
*Western District of Oklahoma, ss.*

I, Vera L. Howard, Clerk of the U.S. Dist. Court for the West. Dist. of Okla. do hereby certify that the foregoing is a true and full copy of the original instrument as appears of record in my office.

Witness my hand and the seal of said court this 15 day of November, 1967

VERA L. HOWARD, *Clerk*
By CECIL A. QUALLS, *Deputy.*

U.S. GOVERNMENT PRINTING OFFICE: 1967

